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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,830	09/07/2004	Ralph Gronau	PC10368US	7681

7590 04/26/2006

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EXAMINER

BURCH, MELODY M

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 04/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/506,830	Applicant(s) GRONAU ET AL.	
	Examiner Melody M. Burch	Art Unit 3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29 and 31-37 is/are rejected.
- 7) ☒ Claim(s) 30 and 38-41 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 37 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant lacks adequate support for the phrase "wherein the actuation counter is increased and the active pressure-increasing unit or the pressure modulation unit are actuated only if the determined difference is greater than the threshold value for a predetermined period of time." Examiner notes that paragraph [0032] mentions a control process that takes place only when an acceptable change of the monitored quantity has been adjusted, but the monitored quantity is actuation of the pump or valve. Also paragraph [0018] mentions a predetermined period of time, but it does not tie the predetermined period of time with the counter or the threshold as required by claim 37.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 29, 31, 32, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6030055 to Schubert in view of US Patent 6029497 to Brinks et al.

Re: claims 29, 31, and 32. Schubert describes a method for controlling a vehicle brake system with active hydraulic brake force boosting comprising: determining a nominal value indicative of a desired braking condition, determining an actual value indicative of an actual braking condition, determining if a difference between the nominal value and the actual value is greater than a threshold value, and, if such difference is greater than the threshold value, and actuating an active pressure-increasing unit or a pressure modulation unit at a desired actuation level based on the determined difference in col. 6 lines 63-67 and col. 7 lines 5-7.

Schubert lacks the limitation of an actuation counter and increasing the actuation counter by one increment.

Brinks et al. teach in col. 3 lines 8-12, 16-19 and 45-48 the use of an actuation counter and increasing the actuation counter by one increment.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method of controlling the vehicle brake system of Schubert to have included an actuation counter, as taught by Brinks, in order to provide a control variable for the brake system.

Re: claims 33. Schubert, as modified, describes the invention substantially as

set forth above including the limitation of generating a pressure increase when the nominal or reference pressure is higher than the actual pressure, but is silent with regards to the specific percentage ranges.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the percentages at which the pressure increasing unit or pressure reducing unit of Schubert actuates to have been 20% to 50% or 40% to 60% or the amount the valve current strength increases by 200% to 400% or any other appropriate range as determined by routine experimentation based on the particular application since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

5. Claims 34, 35, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schubert in view of Brinks et al. as applied to claim 29, and further in view of US Patent 5816667 to Jokic.

Re claims 34 and 35. Schubert, as modified, is silent with regards to the nominal and actual values being vehicle acceleration.

Jokic teaches in lines 4-8 of the abstract that the nominal and actual values that are compared for the purposes of brake control may be either deceleration (negative acceleration) or brake pressures.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the compared nominal and actual brake pressure values of Schubert, as modified, to have been vehicle acceleration values, as taught by

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Jokic, in order to provide a functionally equivalent control variable used to effect accurate control of the braking capacity.

Re: claims 36. Schubert, as modified, describes the invention substantially as set forth above, but is silent with regards to the specific percentage ranges.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the percentages at which the pressure increasing unit or pressure reducing unit of Schubert actuates to have been 20% to 50% or 40% to 60% or the amount the valve current strength increases by 200% to 400% or any other appropriate range as determined by routine experimentation based on the particular application since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Allowable Subject Matter

6. Claims 30 and 38-41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claim 37 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 1st paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 571-272-7114. The examiner can normally be reached on Monday-Friday (6:30 AM-3:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan can be reached on 571-272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mmb
April 24, 2006

Melody M. Burch
Melody M. Burch
Primary Examiner
Art Unit 3683
4/24/06